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PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
HANSSEN, Peter et al.	:	
Application No.: 10/593,400	:	DECISION
PCT No.: PCT/SE2005/00396	:	
Int. Filing Date: 17 March 2005	:	ON PETITION UNDER
Priority Date: 19 March 2004	:	
Docket No.: 1103326-0913	:	37 CFR 1.10(d)
For: A CONTAINER FOR PILLS AND A	:	
METHOD OF FORMING SUCH A	:	
CONTAINER	:	

This decision is in response to applicants' Petition Under 37 CFR 1.10(d), filed in the United States Patent and Trademark Office on 03 May 2007.

BACKGROUND

On 17 March 2005, applicant filed international application PCT/SE2005/00396, which claimed a priority date of 20 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 29 September 2005. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 19 September 2006.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 19 September 2006.

On 03 May 2007, applicant submitted the instant petition, accompanied by a copy of the Express Mail label.

DISCUSSION

In the instant petition, applicant requests that the receipt date be amended to 18 September 2006. The Express Mail mailing label "date in" is blank.

Applicant argues that the application was submitted to the USPS on 18 September 2006. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered or omitted "Date In" and states that:

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied items (1) and (2). The petition was filed promptly and the papers in the file reflect the mailing label number.

Item (3) has not been satisfied. Applicant has provided a copy of the Express Mail mailing label. However, other than "Sep 18," the stamp is illegible. Further, applicant has not provided a statement from the person who deposited the package that it was deposited on 18 September 2006, with USPS prior to the last scheduled pickup for that day. The certificate on the original correspondence was created prior to deposit and demonstrates an intent to deposit the papers on 18 September 2006, but could not demonstrate actual knowledge that the papers were deposited on 18 September 2006. Currently, the date accorded by the Office, which matches the USPS Track/Confirm date, conflicts with the stamp on the Express Mail mailing label. Additional evidence is required.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the date of receipt of the papers for entry into the national stage in the United States to 18 September 2006 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,

Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink that reads "Erin P. Thomson". The signature is written in a cursive style with a large, stylized "E" and "T".

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